

**FEB 11 2016**Clerk, U.S. District Court  
District Of Montana  
MissoulaIN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION

KERMIT TY POULSON,

Plaintiff,

vs.

EXECUTIVE DIRECTOR OF  
CONNECTIONS CORRECTIONS OF  
BUTTE MONTANA, MARK  
JOHNSON, and PAUL SELLS,

Defendants.

CV 15-0058-BU-BMM-JCL

Related Cases:

14-CV-43-H-DLC-JTJ,

14-CV-185-M-DLC-JCL

**RECOMMENDATION AND  
ORDER**

Plaintiff Kermit Ty Poulson, a prisoner at Montana State Prison, proceeding without counsel, filed a motion to proceed in forma pauperis (Doc. 1) seeking to sue the Executive Director of Connections Corrections on behalf of Disability Rights Montana and the People of Montana. (Complaint, Doc. 2). He alleged violations of the Americans with Disabilities Act, 42 U.S.C. § 12132, et seq., invoking subject matter jurisdiction pursuant to 28 U.S.C. § 1331.

On October 14, 2015, this Court issued an Order requiring Poulson to file an amended complaint naming himself as the only plaintiff and to show cause why his motion to proceed in forma pauperis should not be denied pursuant to Local Rule 3.1(d)(4) because this would be Poulson's fourth non-habeas action pending

in this Court.<sup>1</sup> (Doc. 4.) Poulson was given an opportunity:

- (A) to show that he is in imminent danger of serious physical injury;
- (B) to pay the full filing fee for one or more of the pending or proposed actions;
- (C) to dismiss voluntarily, pursuant to Fed. R. Civ. P. 41(a)(1), one or more pending actions in which the prisoner is proceeding in forma pauperis; or
- (D) to withdraw one or more of the actions for which leave to proceed in forma pauperis is sought.

On October 26, 2015, Poulson filed a response to the Court's Order entitled "Motion to Amend Motion Requesting Hearing." (Doc. 5.) In that response, Poulson named himself as the only plaintiff in this case and sought to voluntarily dismiss Civil Action Nos. 6:14cv43-H-DLC-JTJ and 9:14cv185-M-DLC-JTJ. Findings and Recommendations were issued to grant Poulson's motions to voluntarily dismiss those cases but while those recommendations were pending Poulson moved to withdraw the motions to dismiss. On February 10, 2016, the recommendations issued in those cases were rejected and those matters remain pending.

Poulson may not maintain more than two concurrent non-habeas actions in forma pauperis. L.R. 3.1(4)(d). He was given notice and opportunity to remedy this issue and failed to do so. Accordingly, Poulson's motion to proceed in forma

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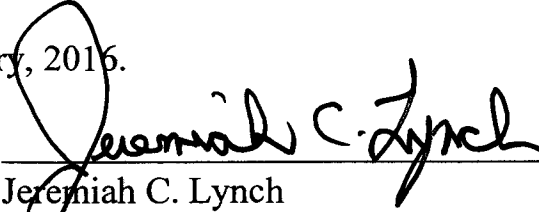
<sup>1</sup>Local Rule 3.1(4)(d) provides that a prisoner may not maintain more than two concurrent non-habeas actions in forma pauperis.

pauperis should be denied.

While the Court ordinarily gives litigants an opportunity to pay the \$400.00 filing fee, it will not do so in this case. Poulson has a history of abusing the system and filing repetitive, frivolous lawsuits. Because Poulson is not entitled to a ten-day period to object, this Order will be entered directly upon endorsement. *See Minetti v. Port of Seattle*, 152 F.3d 1113, 1114 (9th Cir. 1998) (per curiam). No motion for reconsideration will be entertained.

Accordingly, the Court **RECOMMENDS** the following Order be issued by Judge Christensen,

DATED this 11th day of February, 2016.

  
Jeremiah C. Lynch  
United States Magistrate Judge

Based upon the above Recommendation by Judge Lynch, the Court issues the following:

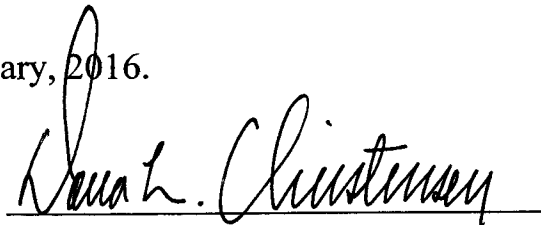
**ORDER**

1. Poulson's Motion to Proceed in Forma Pauperis (Doc. 1) is **DENIED** pursuant to 28 U.S.C. § 1915(g).
2. The Clerk of Court is directed to close the case and enter judgment

pursuant to Rule 58 of the Federal Rules of Civil Procedure.

3. No motions for reconsideration or rehearing will be entertained and the Clerk of Court is directed to discard any such motions.

DATED this 11<sup>th</sup> day of February, 2016.

A handwritten signature in black ink, reading "Dana L. Christensen", written over a horizontal line.

Dana L. Christensen, Chief Judge  
United States District Court